

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

PATRICK M. NASH

v.

CRIMINAL COURT FOR  
DAVIDSON COUNTY, et al.

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NO. 3:16-0093

TO: Honorable Todd J. Campbell, District Judge

**REPORT AND RECOMMENDATION**

By Order entered March 24, 2016 (Docket Entry No. 9), the Court referred this action to the Magistrate Judge under 28 U.S.C. §§ 636(b)(1)(A) and (B), Rule 72 (b) of the Federal Rules of Civil Procedure, and the Local Rules of Court.

Patrick Nash (“Plaintiff”) filed this *pro se* lawsuit on January 28, 2016, seeking relief under 42 U.S.C. § 1983 for alleged violations of his federal constitutional rights. Although the lawsuit was initially dismissed without prejudice by Order entered March 16, 2016 (Docket Entry No. 6), the order dismissing the case was vacated and the lawsuit was reinstated on March 24, 2016. *See* Docket Entry No. 9. Thereafter, the Court advised Plaintiff that, although he is proceeding *pro se* without the assistance of an attorney, he is responsible for serving Defendants with a summons and complaint in compliance with Rule 4 of the Federal Rules of Civil Procedure. *See* Order entered April 5, 2016 (Docket Entry No. 13). The docket for the action indicates that Plaintiff was served with this Order on or about April 8, 2016. *See* Docket Entry No. 15. To date, there is no indication that Defendants have been served with process in this action.

Rule 4(m) of the Federal Rules of Civil Procedure requires that Defendants be served with process within 90 days of the date this action was filed and provides that, in the absence of a showing of good cause by Plaintiff for why service has not been timely made, the Court "must dismiss" the action without prejudice. Plaintiff has not shown that Defendants have been served with process. Because more than 90 days have passed since the Order reinstating the action on March 24, 2016, the action must be dismissed without prejudice in accordance with Rule 4(m). The Court notes that Plaintiff was specifically advised by a prior Order of his obligation to serve Defendants with process. Although Plaintiff is proceeding *pro se*, he must still comply with the basic procedural rules applicable to all litigants. *See Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991); *Aug. v. Caruso*, 2015 WL 1299888, \*6 (E.D. Mich. Mar. 23, 2015) ("pro se parties must follow the same rules of procedure that govern other litigants").<sup>1</sup>

### **R E C O M M E N D A T I O N**

Accordingly, the Court respectfully RECOMMENDS that this action be DISMISSED WITHOUT PREJUDICE in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District

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<sup>1</sup> This Report and Recommendation provides notice to Plaintiff of the Court's intention to *sua sponte* dismiss the action, and the fourteen day period for filing objections provides him with the opportunity to show good cause why the action should not be dismissed.

Court's Order regarding the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).



BARBARA D. HOLMES  
United States Magistrate Judge